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RECENT CASES

CARRIERS — ELEVATORS — CARE REQUIRED — "COMMON CARRIER" — *PER-RAULT v. EMPORIUM DEPARTMENT STORE CO.*, 128 PAC. (WASH.), 1049.—*Held*, that an elevator used to carry passengers is a common carrier, and one operating it, like other common carriers, must exercise the highest degree of care compatible with its practical operation.

It is a well established rule that from a common carrier of passengers the highest degree of care is required. *Derwort v. Loomer*, 21 Conn., 253. The important question, therefore, decided in the principal case, is whether a passenger elevator is a common carrier. The majority of the States which have decided this question, hold that a person operating an elevator in a store or office building is a common carrier of passengers. *Morgan v. Saks*, 38 So. (Ala.), 848; *Beidler v. Branshaw*, 200 Ill., 425; *Hensler v. Stix*, 113 Mo. App., 162; *Fox v. Philadelphia*, 208 Pa., 127. On the other hand recent decisions in New York, Rhode Island, and Michigan hold that a passenger elevator is not a common carrier, and the owner is only bound to use reasonable care in operating it. *Griffin v. Manice*, 166 N. Y., 197; *Burgess v. Stowe*, 134 Mich., 204; *Edwards v. Manufacturers' Bldg. Co.*, 27 R. I., 248. This decision of the minority of the States, as opposed to the holding in the principal case, and to the holding of the majority of the States, is more consistent with the accepted definition of a common carrier, namely, that a common carrier is one who holds himself ready to carry for all persons indifferently, who choose to hire him. *U. S. Express Co. v. Backman*, 28 Ohio St., 150. A person operating an elevator in his store or office building does not carry passengers for hire; nor does he hold himself out to carry for all; he carries only for his tenants or for those who enter upon his implied invitation for the purpose of transacting business with him.

CONDITIONS—RESTRAINT OF MARRIAGE—PUBLIC POLICY.—*RUGGLES v. JEWETT*, 99 N. E. (MASS.), 1092.—*Held*, that a will giving the home place to two daughters as long as they remain single, the main purpose not being to promote celibacy, is not against public policy as being in restraint of marriage.

A condition in a devise which effects a general restraint of marriage is void. *Smythe v. Smythe*, 96 Va., 638. If the effect is only partially to restrain marriage, it is generally valid. *Collier v. Slaughter*, 20 Ala., 263; *Reuff v. Coleman*, 30 W. Va., 171; *Hogan v. Curtin*, 88 N. Y., 163. A condition annexed to a devise to a widow that defeats her estate and gives the land to another, in case she marries again, is, in most jurisdictions, valid. *Cornell v. Lovett's Ex.*, 35 Pa. St., 100; *Martin v. Seigler*, 32 S. C., 267; *Herd v. Catron*, 97 Tenn., 505. It was held, however, in Indiana, that such a provision in a devise to a widow was in restraint of marriage and void.